

Amendment No. 1 to SB1174

Bailey
Signature of Sponsor

AMEND Senate Bill No. 1174

House Bill No. 673*

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 56-9-103, is amended by adding the following as a new subdivision:

() "Federal home loan bank" means an institution chartered under the Federal Home Loan Bank Act (12 U.S.C. § 1421, et seq.), as amended, or its successor statute;

SECTION 2. Tennessee Code Annotated, Section 56-9-105, is amended by adding the following as a new subsection:

() Notwithstanding subsections (a) and (b) and any other provision of this title, a federal home loan bank shall not be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under a security agreement or under any pledge agreement, security agreement, collateral agreement, or other similar arrangement or credit enhancement relating to a security agreement to which the federal home loan bank is a party.

SECTION 3. Tennessee Code Annotated, Section 56-9-304, is amended by adding the following as a new subsection:

() Notwithstanding subsections (a) and (b) and any other provision of this title, a federal home loan bank shall not be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under a security agreement or under any pledge agreement, security agreement, collateral agreement, or other similar arrangement or credit enhancement relating to a security agreement to which the federal home loan bank is a party.

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SECTION 4. Tennessee Code Annotated, Section 56-9-310(a)(13), is amended by adding the following language after the word "party":

. However, the liquidator shall not disavow, reject, or repudiate a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or credit enhancement relating to a security agreement to which a federal home loan bank is a party

SECTION 5. Tennessee Code Annotated, Section 56-9-315, is amended by adding the following as a new subsection:

() Notwithstanding this section and any other provision of this title, a receiver shall not avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or credit enhancement relating to a security agreement to which a federal home loan bank is a party. However, a transfer may be avoided under this section if it was made with the actual intent to hinder, delay, or defraud either existing or future creditors.

SECTION 6. Tennessee Code Annotated, Section 56-9-317, is amended by adding the following as a new subsection:

() Notwithstanding subdivision (a)(2) and any other provision of this title, a liquidator or rehabilitator shall not avoid any preference arising under or in connection with a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or

credit enhancement relating to a security agreement to which a federal home loan bank is a party.

SECTION 7. Tennessee Code Annotated, Title 56, Chapter 9, Part 3, is amended by adding the following as a new section:

(a) Notwithstanding any other provision of this title, any secured claim that a federal home loan bank has on an insurer who is subject to a delinquency proceeding under this chapter is governed exclusively by this section.

(b) Notwithstanding any other provision of this title, a receiver shall not void a redemption or repurchase of any stock or equity securities made by a federal home loan bank within four (4) months of the commencement of the delinquency proceedings or that received prior approval of the receiver. However, a transfer is voidable if the transfer is made with the actual intent to hinder, delay, or defraud the insurer member, the receiver for the insurer member, existing creditors, or future creditors.

(c) If a federal home loan bank exercises its rights regarding collateral pledged by an insurer member who is subject to a delinquency proceeding, then the federal home loan bank shall repurchase any capital stock that is in excess of the amount of federal home loan bank stock that the insurer member is required to hold as a minimum investment, to the extent the federal home loan bank in good faith determines the repurchase to be permissible under applicable laws, regulations, regulatory obligations, and the federal home loan bank's capital plan, and consistent with the federal home loan bank's current capital stock practices applicable to its entire membership.

(d) Following the appointment of a receiver for an insurer member, the federal home loan bank, within ten (10) business days after a request made by the receiver, shall provide a process and establish timelines for the:

(1) Release of collateral that exceeds the lendable collateral value, as determined pursuant to the advance agreement with the federal home loan bank,

required to support secured obligations remaining after any repayment of advances;

(2) Release of any of the insurer member's collateral remaining in the federal home loan bank's possession following repayment in full of all outstanding secured obligations of the insurer member;

(3) Payment of fees owed by the insurer member and the operation of deposits and other accounts of the insurer member with the federal home loan bank; and

(4) Possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer member is required to own.

(e) Upon request from the receiver for an insurer member, the federal home loan bank shall provide any available options that an insurer member may exercise to renew or restructure an advance to defer associated prepayment fees, subject to the following:

(1) Market conditions;

(2) The terms of the advances outstanding to the insurer member;

(3) The applicable policies of the federal home loan bank; and

(4) Compliance with the Federal Home Loan Bank Act (12 U.S.C. § 1421, et seq.) and corresponding regulations.

(f) After the tenth day following the commencement of a delinquency proceeding in this state involving an insurer member of the federal home loan bank, the federal home loan bank must not be stayed or prohibited from exercising its rights regarding collateral pledged by that insurer member.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring

it.